

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

Crl.P.No.16352 of 2014

ORDER :

This petition is filed under Section 482 of the Code of Criminal Procedure (for short, 'the CrPC') by the Petitioner/A.2 to set aside the order dated 10.12.2014 in Crl.M.P.No.254 of 2014 in C.C.No.2 of 2014 on the file of the Special Judge for SPE & ACB Cases –cum-II Additional District & Sessions Judge, Nellore, and consequently allow the said Crl.M.P.No.254 of 2014.

2. Heard the learned counsel for the petitioner/A.2 so also the learned Public Prosecutor representing State-1st respondent before admission and before ordering notice to the 2nd respondent/defacto-complainant and perused the material on record.

3. It is right of the accused to lead defence evidence. It is the submission that list of witnesses already filed in the Court that is misplaced and there is a fault irrespective of the docket order dated 05.11.2014 in not giving copy of the list already by mentioning as misplaced and the docket order to rectify, due to inadvertence of the defence counsel before the trial Court for which the right of the accused shall not be prejudiced. No doubt, under Section 311(2) of Cr.P.C. the Court shall allow if such defence evidence is necessary for effective disposal of the case so to permit irrespective of the case not coming within the discretionary power with a right of party to seek under Section 311(1) of Cr.P.C. Needless to say even under Section 165 of the Indian Evidence Act to subserve the ends of justice, the trial Court may permit. A perusal of the order no way shows whether these witnesses are necessary or not to the defence for same not even adverted to.

4. Having regard to the above and to subserve the ends of justice as the petitioner wants to confine to the 4 witnesses i.e. 1) K.Wilson, 2)Boddu Sivarami Reddy, 3) S.K.Kalifa and 4) K.Mahesh and so endorsed today in the petition itself, the petition is to be allowed to that

effect to be permitted to examine them as defence witnesses by directing the trial Court accordingly.

5. Accordingly Criminal Petition is disposed of permitting the petitioner to examine 4 witnesses i.e. 1) K.Wilson, 2)Boddu Sivarami Reddy, 3) S.K.Kalifa and 4) K.Mahesh in defence before the trial Court and the trial Court to permit the petitioner so by fixing dates for the defence evidence for expeditious disposal of the case. Consequently, miscellaneous applications, if any, pending in this Petition shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date: 26.06.2015
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